



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2018

CORAM :

WEB COPY

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

C.R.P. (NPD) (MD) No.450 of 2018

Samadana Sundari

.. Petitioner / 6th defendant

Vs.

1.Jothi Anthony Santhiyagu  
Kulandai Terasa Ammal (died)  
S.Adaikalam Jeyaraj (died)

..1<sup>st</sup> Respondent / Plaintiff

2.S.Uthama Pathima Soosairaj  
3.S.John Sahaya Peter  
4.S.Christ Raja Panneerselvam  
5.Mariya Pushpam  
6.Scholastic Amala  
7.Cyril Eginus Antony  
8.Thomas Raja

..Respondents /Defendants

**PRAYER:** Petition filed under Article 227 of the Constitution of India, to direct the learned I Additional District Munsif, Tiruchirapalli to dispose of the OS. No.387 of 1996, within a time limit fixed by this Court.

For Petitioner : Mr.T.Senthilkumar

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**ORDER**

The Civil Revision Petition has been filed seeking a direction to the learned I Additional District Munsif, Tiruchirapalli to dispose of the OS. No.387 of 1996, within a stipulated time as fixed by this Court.

2. The petitioner would aver that the 1st respondent who is his brother, filed a suit in O.S.No.336 of 1990, against four brothers for partition of suit property and thereafter, the petitioner was impleaded as 6th defendant as per order in I.A.No.493 of 1992. After hearing arguments of both sides, the learned Sub-Judge, passed a preliminary decree on 03.01.1994. The 1st respondent has filed an Interlocutory Application for passing a final decree. Even though the learned Trial Judge appointed an Advocate Commissioner to divide the property as per the preliminary decree but the Advocate Commissioner has filed a memo stating that



the 1st respondent did not co-operate for inspection and returned the warrant. Thereafter, another Advocate Commissioner was appointed and he also filed a memo for the same reason and returned the warrant. Therefore, the Interlocutory Application filed by the 1st respondent was dismissed. In these circumstances, due to pecuniary jurisdiction, the above suit was transferred to the I Additional District Munsif Court, Trichy and renumbered as O.S.No.387 of 1996. Thereafter, the petitioner has filed an Interlocutory Application in I.A.No.906 of 2014 to appoint an Advocate Commissioner to inspect the suit property and divide the same into 9 equal shares and allot one such share to the petitioner with the help of local Surveyor and if Advocate Commissioner feels that the property is indivisible, prays for an order to sell the same in public auction and direct him to pay the share to the parties as per the present market value and the same was ordered on 20.12.2016. Based on the order, Advocate Commissioner inspected the property and filed a report along with a plan and now, it is pending for objection.

3. The grievance of the revision petitioner is that the suit property is under the possession and enjoyment of the 1st respondent and also collecting rent from the tenants and hence, the 1st respondent is prolonging the matter one way or other and the matter is pending from the year 1990 and the same is being adjourned by the trial Court periodically without any further progress and therefore, he has come up with this civil revision petition for the aforesaid prayer.

4. Heard the learned Counsel for the petitioner and perused the materials available on record.

5. Since the case is for a limited relief of early disposal, no notice need be sent to the respondent.

6. A perusal of the 'B' Diary extract would go to show that as stated by the learned counsel for the petitioner, the case has been adjourned on several occasions without any valid reason. Admittedly, a preliminary decree was passed as early as on 03.01.1994 and the petitioner has filed an interlocutory application in I.A.No.906 of 2014 for passing of final decree and the same is periodically adjourned without any valid reason. Therefore, this Court, without going into the merits of the allegation raised by the revision petitioner, is inclined to direct the Court below to dispose of the final decree application in I.A.No.906 of 2014 in O.S.No.387 of 1996, within a stipulated period.

7. In view of the above, the learned First Additional District Munsif, Tiruchirapalli, is directed to dispose of I.A.No.906 of 2014 in O.S.No.387 of 1996, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.



costs.

8. The Civil Revision Petition is ordered accordingly. No

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The I Additional District Munsif,  
Tiruchirapalli.

+1CC TO M/S.T.SENTHIL KUMAR, ADVOCATE, SR NO.53231

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**MS/GT/SAR-2/20.03.2018/3P.3C**